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A CURSORY REVIEW OF CREDIT LAW IN CANADA

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Alberta Consumer and Corporate Affairs
Management Secretariat
Research Section

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The material is grouped into three sections, as follows:

1. Attention to General Topics

In a single table, the general intent and provisions of credit law are listed down the left side, and the provincial jurisdictions responsible for them appear across the top. If a jurisdiction addresses a particular point in its laws, an X appears opposite that topic and below the province in question. For example, in the table, all provinces are shown to prescribe rules governing advertising of charges and rates.

This, essentially, is an interpretation by the Research Section; there may be other views on the intent of the legislation.

2. Specific Provisions

In a series of 7 tables, each following the same format as No. 1 above, the incidence of specific credit law provisions by province is noted with an X. For example, Table 1 lists Exemptions. All jurisdictions exempt "Mortgages on Real Property"; only Newfoundland excuses "Credit Union Loans". Table 2, which presents Disclosure on Sales and Loans, shows all provinces to require that "Insurance or

Official Fees" be made known; only Manitoba and B.C. require "Third-party Payments" to be revealed. The other tables follow this rationale.

3. Summary

As a rough and preliminary indicator of uniformity or lack thereof, the summary section presents two lists. The first itemizes those points of law which all provinces share, while the second lists those points which are not held unanimously.

This material is presented without comments as to the degree of uniformity among provincial statutes and regulations. Presumably, the Minister or those in the Department acquainted with credit will carry the analysis one step further and judge the similarity or diversity of the laws.

ATTENTION TO GENERAL TOPICS

Province Topic	Nfld.	N.S.	P.E.I.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.
Provide relevant credit information: Disclosure	x	x	x	x	x	x	x	x	x	x
Eliminate Artificial distinctions to facilitate comparison shopping										
Manner and frequency of payments					x		x			
Rules pertaining to advertising of charges and rates	x	x	x	x	x	x	x	x	x	x
Prohibition of excessive credit charges										
Regulation of tax discounts									x	
Discouragement of unsolicited credit cards			x	x	x			x	x	
Rolling over practices										
Prepayment of loans	x	x	x	x	x	x	x	x	x	x
Penalties for late payment										
Notice of assignment	x	x	x	x	x	x	x	x	x	x
Relief from accelerated payments and forfeiture					x		x			

Source: Research Section review, based on CCH Canadian Sales and Credit Law Guide and provincial statutes and regulations.

ASSIGNMENT OF CREDIT											
Assignees	Provinces	Nfld.	N.S.	P.E.I.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.
The assignee of any rights of a lender or credit grantor has no greater right than the assignor, and is subject to all obligations, etc. to which assignor was subject			x		x		x	x	x	x	x
Assignee remains responsible up to amount of payments received, if debt re-assigned						x	x	x	x		x
Liability limited to total debt at date of assignment			x		x		x	x	x		x
Assignees of negotiable instruments protected		x			x		x		x		

Source: Research Section review, based on CCH Canadian Sales and Credit Law Guide and provincial statutes and regulations.

DISCLOSURE - SALES AND LOANS

Province Disclosure	Nfld. ¹	N.S.	P.E.I.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.
Single cash sum received	x ^{2,3}	x ³	x ²	x	x	x ³	x	x ^{2,3}	x	x
Single cash price	x	x	x	x	x	x	x ⁴	x	x ⁴	x
When lender is seller:										
Down payment or trade in allowance	x	x	x	x	x	x	x	x	x	x
Difference between cash price and any allowance	x	x	x	x	x					
Balance payable	x	x	x	x	x	x	x	x	x	x
Unpaid amounts to be consolidated	x	x	x	x						x
Third party payments							x			x
Single sum cost of borrowing (or 1-year equivalent)	x	x	x	x	x	x ⁵	x	x	x ⁵	x
Cost of borrowing as an annual % rate	x ⁶	x	x ⁶	x	x	x	x	x	x ⁶	x
Basis for default charges	x	x	x	x		x	x	x	x ⁷	x
Insurance or official fees	x	x	x	x	x	x	x	x	x	x
Principal of loan									x	
Repayment schedule					x		x		x	
Security taken/chattel mortgages					x		x		x	
Separate installation and delivery charges					x		x		x	
Clear description of goods					x		x		x	
Total amount to be repaid					x		x		x	
Rebates for early payment of consolidated loans		x								
Specified form of contract									x	
Others					x		x			

- Notes:
1. No statement of disclosure required when credit exceeding \$25,000 is extended for purchases of goods for industrial purposes.
 2. Including third party payments.
 3. Including official or insurance fees.
 4. Including delivery or installation charges.
 5. One-year equivalent not permitted.
 6. Expressed as annual percent rate.
 7. Expressed as annual percent rate.

Source: Research Section review, based on CCH Canadian Sales and Credit Law Guide and provincial statutes and regulations.

PREPAYMENT AND REBATE

Province	Nfld. ¹	N.S.	P.E.I. ¹	N.B.	Que.	Ont.	Man. ²	Sask. ²	Alta. ²	B.C.
Prepayment and Rebate										
Calculation of rebate to creditor:										
Rule of 78th's 3	x	x	x	x						x
Numerator-denominator method 3					x ⁴	x	x	x	x	
Minimum \$2 rebate	x	x	x	x		x	x	x	x	
Substantial prepayment bonus						x		x	x	
Prepayment fee 5	x ⁶	x ⁷	x ⁷	x ⁷	x ⁹	x ⁷	x ⁶	x ⁷	x ⁷	x ⁸
Statement of calculation provided on request							x		x	

- Notes:
1. Prepayment to be made within the first half of the term of the agreement
 2. Rebate to be calculated from the date from which the credit charge is computed, if different from the date of sale
 3. If the scheduled payments are equal, the two methods are equivalent
 4. Agreements of five years or less
 5. Not applicable to refinanced debts or additional extensions of credit
 6. Ten dollars or one-half the rebate, whichever is less
 7. Twenty dollars or one-half the rebate, whichever is less
 8. Fifteen dollars or one-half the rebate, whichever is less
 9. Ten dollars or one-half the rebate, whichever is less, if debt paid in full in the first one-third of credit agreement term

Source: Research Section review, based on CCH Canadian Sales and Credit Law Guide and provincial statutes and regulations.

TOLERANCES IN DISCLOSURE

Tolerances* Province	Nfld.	N.S.	P.E.I.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.
Rate disclosed as cost of borrowing may differ from the calculated rate by not more than:										
1/8%					x					
1%	x	x	x	x		x	x	x	x	x
Percentage rate on a regular payment contract must apply to a sum differing from total credit granted by no more than:										
\$ 2.50	x	x	x	x						
\$ 5.00						x	x	x	x	x
\$10.00					x					
On variable credit, the rate disclosed can be applied to all periodic balances when:										
- the range of balances is \$10 or less, and the highest balance is less than \$1,000	x	x	x		x	x	x	x	x	x
- the range of balances is \$20 or less, and the lowest balance exceeds \$1,000	x	x	x		x	x	x	x	x	x

* In all provinces, tolerances cannot be used intentionally to understate the annual percentage rate as calculated by the standard rules.

Source: Research Section review, based on CCH Canadian Sales and Credit Law Guide and provincial statutes and regulations.

EXEMPTIONS										
Province Exemptions	Nfld.	N.S.	N.B.	P.E.I.	Que.	Ont.	Man.	Sask.	Alta.	B.C.
Mortgages of Real Property	x	x	x	x	x	x	x	x	x	x
Industrial/business loans/ sales to corporations	x	x	x	*		x	x	*	*	*
Sales under \$50			x		x	x			x	x
Goods intended for resale	x	x	x	x	x	x	x	x	x	x
Life insurance loans	x						x	x	x	x
Sales by public utilities					x	x	x	x	x	
Specific exemptions	x				x				x	
Sales to governments	x				x		x		x	x
Credit Union shares										x
Cost of borrowing less than \$10							x		x	
All gov't guaranteed loans					x		x			
Student loans									x	x
Demand loans and loans over \$7,500							x			
Bonds and debentures								x		x
Gas, as approved by energy board						x				
Security Brokers					x					
Hail insurance								x		
Insurance and Annuity contracts					x					
Hire of property					x					
Credit Union loans	x									
Land sales/pawnbrokers/ others by regulation									x	
* excluding farming, fishing, feed lot operations.										

Source: Research Section review, based on CCH Canadian Sales and Credit Law Guide and provincial statutes and regulations.

ADVERTISING OF CREDIT TERMS

Advertising ¹	Provinces	Nfld.	N.S.	P.E.I.	N.B.	Que. ² A V L	Ont.	Man. ³	Sask.	Alta. ³	B.C.
If any terms are advertised other than credit charge, the following must appear:											
- Actual cash received (loan) or,	x	x	x	x			x	x	x	x	x
- Cash price of the goods (sale)	x	x	x	x	x		x	x	x	x	x
- Down payment required	x	x	x	x	x		x	x	x	x	x
- Amount of each installment	x	x	x	x	x	x ⁴	x	x	x	x	x
- Number of installments	x	x	x	x	x		x	x	x	x	x
- Amount of credit					x						
- Credit charge					x	x					
- Credit rate					x	x					
- Total obligation					x						
- Reference table of charges and rates					x	x					
- Credit limit					x						
- Period of installments or statements					x	x					
- Charge-free period					x						
Special local provisions	x ⁶	x ⁶	x ⁶	x ⁶	x ^{7,8}		x ⁷	x ⁸	x ^{7,9}	x ¹⁰	x ⁷

- Notes:
1. No province permits a lender to advertise his credit charge unless the ad includes the cost of borrowing expressed as an annual percentage rate and in the same manner as is required for the statement of the cost of borrowing.
 2. If one of the items is mentioned, they must all be mentioned.
 3. If any reference is made to the cost of borrowing, including a charge for credit, all of these must be disclosed.
 4. Minimum periodic payment in dollars and cents or as a percentage of the total debt.
 5. Minimum for each period.
 6. Lenders who are not sellers may advertise minimum and maximum loan sizes and maximum loan terms, or for loans of a specified amount, the number and size of monthly payments, without giving other terms.
 7. Terms may be omitted if the advertisement is displayed at the lender's business premises and it contains a printed statement that full terms may be obtained from a source on the premises. Catalogue ads must refer to a page in the catalogue where terms may be found.
 8. A bait and switch tactic, known as "double-barrelling" of credit plans, is prohibited.
 9. A lender may advertise that a credit plan is available at his usual rates.
 10. A lender may simply state that a credit plan is available, without meeting disclosure requirements.

Note on Quebec:

A - Accessory agreements and installment sales.

V - Variable credit.

L - Loans

Source: Research Section review, based on CCH Canadian Sales and Credit Law Guide and provincial statutes and regulations.

DISCLOSURE-VARIABLE

Province Disclosure	Nfld.	N.S.	P.E.I.	N.B.	Que.	Ont.	Man.	Sask.	Alta. ¹	B.C.
Master agreement, or statement of costs must contain:										
- annual percentage rate	x	x	x	x	x	x	x	x	x	x
- minimum payments required	x	x	x	x	x	x	x ²	x	x	x
- cost of borrowing in dollars and cents (scale of examples)	x	x	x	x	x	x	x	x	x	x
- frequency of statement/payment					x		x			
- credit limit					x					
Periodic statement to contain:										
- opening balance	x	x	x	x	x	x		x	x	x
- amount and date of each extension	x	x	x	x	x	x		x	x	x
- identification of goods and services						x		x		
- total credits during period	x	x	x	x	x	x		x	x	x
- cost of borrowing in dollars and cents	x	x	x	x	x	x		x	x	x
- cost of borrowing as percentage and as scale of fixed amounts	x	x	x	x	x	x		x	x	x
- closing balance	x	x	x	x	x	x		x	x	
- the statement of borrowing costs	x	x	x	x		x		x		x
Frequency of statement	x ³	x ³	x ³	x ³		x ⁴		x ⁵	x ⁶	x ³
One-year equivalent cost allowed	x	x	x	x	x		x	x		x
Notice of increase of cost of borrowing required					x ⁷		x	x ⁸	x ¹⁰	x ⁹

Notes: 1. Additional requirements also apply to continuous deferred payment plans, and revolving loan agreements.

2. Includes method of calculation.

3. Not less than every five weeks.

4. Not more than every four weeks nor less than every five.

5. Not less than every three months.

6. At least every month.

7. New master agreement required.

8. Thirty days notice.

9. Six months notice.

10. Memorandum of revision.

Source: Research Section review, based on CCH Canadian Sales and Credit Law Guide and provincial statutes and regulations.

SUMMARY

A. Shared Provisions

1. Disclosure of annual percentage rate.
2. " " minimum payment requirement.
3. " " cost of borrowing in dollars and cents for sale
 and loans.
4. " " single cash sum received (on loans).
5. " " single cash price.
6. " " down payment or trade-in allowance.
7. " " balance payable.
8. " " cost of borrowing as annual percentage rate.
9. " " insurance or official fees.
10. Prepayment fee regulated.
11. Exemptions of mortgages on real property.
12. " " goods intended for resale.
13. Regulation of advertising pertaining to cash price of goods.
14. " " " " " down payment required.
15. Rate disclosed as cost of borrowing may differ from the calculated rate by not more than a small specified percentage.

B. Dissimilar Provisions

1. Disclosure of difference between cash price and any allowance.
2. " " unpaid amounts to be consolidated.
3. " " third party payments.
4. " " single-sum cost of borrowing on variable credit.
5. " " basis for default charges.
6. " " principal of loan.
7. " " repayment schedule.
8. " " security taken/chattel mortgages.
9. " " separate installation and delivery charges.
10. " " clear description of goods.
11. " " total amount to be repaid.
12. " " rebates for early payment.
13. " " credit limit.
14. " " frequency of statement/payment in periodic statement.
15. Disclosure to be in specified form.
16. Periodic statement required.
17. " " to include opening balance.
18. Periodic statement of amount and date of each extension.
19. " " " identification of goods and services.
20. " " " total credits during period.
21. " " " cost of borrowing in dollars and cents for
variable credit.
22. " " " cost of borrowing as percentage and as scale
of fixed amounts.
23. " " " closing balance.

24. Periodic statement to include master agreement.
25. Frequency of statement.
26. One-year equivalent cost allowed.
27. Notice of increase of cost of borrowing required.
28. Calculation of rebate.
29. Minimum \$2 rebate.
30. Substantial pre-payment bonus.
31. Statement of rebate calculation provided on request.
32. Assignee of any rights has no greater right than assignor and is subject to all obligations to which assignor was subject.
33. Assignee responsible up to amount of payments received if debt is reassigned.
34. Liability limited to total debt at date of assignment.
35. Assignees of negotiable instruments protected.
36. Exemption of industrial/business loans/sales to corporations.
37. " " sales under \$50.
38. " " life insurance loans.
39. " " sales by public utilities.
40. " " specific situations.
41. " " sales to governments.
42. " " credit union shares.
43. " " cost of borrowing less than \$10.
44. " " all government guaranteed loans.
45. " " student loans.
46. " " demand loans and loans over \$7,500.
47. " " bonds and debentures.
48. " " gas as approved by energy board.
49. " " security brokers.

50. Exemption of hail insurance.
51. " " insurance and annuity contracts.
52. " " hire of property.
53. " " credit union loans.
54. " " land sales/pawnbrokers/others, by regulation.
55. Regulation of advertising pertaining to actual cash received.
56. " " " " " amount of each installment.
57. " " " " " number of installments.
58. " " " " " amount of credit.
59. " " " " " credit charge.
60. " " " " " credit rate.
61. " " " " " total obligation.
62. " " " " " reference table of charges
and rates.
63. " " " " " credit limit.
64. " " " " " period of installments or
statements.
65. " " " " " charge free period.
66. % rate on regular payment contract must apply to a sum differing
from total credit granted by \$2.50, \$5.00, or \$10.00.
67. On variable credit, rate disclosed can be applied to all periodic
balances when (a) range of balances is \$10 or less and highest
balance is less than \$1,000, and (b) range of balances is \$20
or less, and the lowest balance exceeds \$1,000.